

Department of State Revenue

Audit Gram Number IR-009

December 1, 1998

Notice: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

Issue

Combined Return – Prior Audit.

Authority: IC 6-3-1-28; IC 6-3-2-2(q); IC 6-8.1-3-3: 45 IAC 3.1-1-62.

IC 6-3-2-2. Adjusted gross income as applied to corporations...

(l) If the allocation and apportionment provisions of this article do not fairly represent the taxpayer's income derived from sources within the state of Indiana...

(q) [T]axpayers may petition the department... for permission to file a combined income tax return for a taxable year. The petition to file a combined income tax return must be completed and filed with the department not more than thirty (30) days after the end of the taxpayer's taxable year.

[1993]

Facts

The taxpayer filed a combined return for the years 1989, 1990, and 1991. A field audit of these years, considering the facts existing at the time, allowed the filing of a combined return. An audit of the years 1992, 1993, and 1994 has determined that the filed combined returns do not fairly represent Indiana income.

Question

To what extent can adjustments be made to the filed combined returns for the years 1992, 1993, and 1994?

Response

The combined returns filed for the years 1992 – 1994 will be allowed without adjustment provided the facts, under which the audited 1989 – 1991 combined returns were allowed, have not changed. The taxpayer may be notified by established procedure that the filing of future combined returns will not be allowed.

I. Periods Beginning Prior To July 1, 1993

Effect Of Prior Field Audit On Subsequent Combined Returns

A. All combined returns filed by taxpayers, with or without permission from the Department, for years immediately following those covered in a field audit which allowed the filing of a combined return, will be deemed to fairly represent Indiana income provided the facts determined in the prior audit have not significantly changed.

B. If one or more of the members of a filed combined return no longer qualify because the facts under which they were allowed to be included have changed, all remaining members for whom the facts have not changed will continue to qualify.

C. If a combined return includes a new member or members for which the facts were considered by the taxpayer to be the same as those of the existing members, the combined return will be accepted if those facts prove to be accurate. All remaining members for whom the facts have not changed will continue to qualify.

D. If the combined return excludes a prior member or members or fails to include a new member, the exclusion of those members or the inclusion of a new member will be evaluated using the facts under which the existing members of the combined return were accepted in the previous audit.

II. Periods Beginning On Or After July 1,1993

Permission To File Combined Return.

A. Effective with the 1993 amendment of IC 6-2-2-(q), a taxpayer who wishes to file a combined return must file a petition with the Department within 30 days after the end of the taxable year for which the combined return is intended. A taxpayer who receives permission to file a combined return is not required to file a request for permission for subsequent years unless the facts under which the permission was granted have changed.

B. Facts will be deemed to have changed, such that a new request for permission must be filed, under the following conditions:

1. The taxpayer intends to include a new member or members.
2. The taxpayer intends to exclude an existing member or members.

III. Periods Beginning On Or After July 1,1993

Field Audit Of Combined Return.

A. Combined Returns Filed With Permission.

A field audit of a filed combined return for which the taxpayer has requested and received permission to file, will be accepted as fairly representing Indiana income providing the facts and conditions asserted by the taxpayer which prompted the Department to grant the permission were accurate and reasonably complete.

B. Combined Returns Filed Without Permission.

A field audit of a filed combined return for which the taxpayer failed to request or was denied permission to file such return, will be adjusted as necessary to fairly represent Indiana income under the standards of IC 6-3-2-2. Such adjustment may or may not include a combined return.

C. Combined Return Filed in Reliance Upon a Prior Field Audit.

A field audit of a filed combined return which was filed relying upon the results of a prior field audit which allowed such filing status, will allow the current combined return filing, provided the facts upon which the audit results were based, have not changed.

If the facts for any member have changed from those in the prior audit, all members of the combined return are subject to review. The combined return may be adjusted in any way necessary to fairly

represent Indiana income under the standards of IC 6-3-2-2. Such adjustment may or may not include a combined return.

IV. Audit Adjustment Of Filed Combined Return.

A. Audit Adjustments.

If, as allowed by this document, a field audit determines that a filed combined return does not fairly represent Indiana income, the combined return filing status may be totally denied or adjusted as necessary. Taxpayer members who are denied permission to file as a member of a combined return, are limited to the filing status of the year immediately preceding the combined return.

The computation method, credits, and amounts included in any filed combined return may always be adjusted as necessary.

B. Taxpayer Notification.

The taxpayer will be notified by a statement included by the auditor in the formal audit report if future combined returns will not be allowed.

The Department will confirm the denial of future combined return filing in separate correspondence accompanying the taxpayer's notification of the results of the field audit. The prospective denial of permission to file a combined return will be effective for tax years beginning after the date of notification. Future compliance will be monitored by the Department.